

1/4/16

ORDINANCE NO. 50-146

AN ORDINANCE CREATING SECTION 2.04.235 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CONDUCT OF COUNCIL ON QUASI-JUDICIAL MATTERS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 2.04.235 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**"Process for Appeal of Staff Determinations.** In matters where the City Council is hearing an appeal from staff recommendations regarding the denial, suspension or revocation of a license, or reviewing actions or decisions of city staff pursuant to appeal provisions set forth in city ordinances, the following procedures shall be used by the council in conducting such hearing:

(a) The usual rules of procedure regarding time limitations for speakers are set aside. Parties shall be allowed adequate time to present their evidence and statements as to the basis of the appeal, and to support staff's decision.

(b) The Mayor, or Vice Mayor, will act as presiding officer. The presiding officer will rule on objections and will call parties to present evidence. Witnesses who testify will be sworn by the City Clerk.

(c) The hearing should be conducted in the following order of presentation:

1. The parties will present a short opening statement regarding their position of the issues to be determined.

2. Evidence in support of revocation, suspension or denial of a license or to support staff's decision is presented by the Assistant City Attorney or other city staff.

3. City Council Members may ask questions of any witness and staff called by either party.

4. Licensee, appellant or their attorney has the right to cross-examine each witness or city staff who testifies.

5. Licensee or appellant has the right to call witnesses on his or her behalf, including any city witnesses.

6. The Assistant City Attorney representing staff may cross-examine each witness called on behalf of the licensee or appellant.

7. City Council Members may ask questions of the licensee or appellant, even if he or she is not called as a witness.

8. Opportunity for rebuttal by city staff or by the Assistant City Attorney may be granted at the discretion of the presiding officer.

9. Unless granted additional time by the presiding officer, time for closing statements by the Assistant City Attorney

and the licensee, appellant or their attorney is limited to 10 minutes each.

10. The City Council may discuss the testimony and arguments after evidence is presented. Upon a proper motion, the council may move to deliberate in executive session.

(d) The City Attorney and/or opposing side may submit suggested findings of fact to the Council.

(e) City Council decisions are to be made by motion. A majority vote of the members of the City Council is required to pass a motion. The Council should adopt findings of fact which establish a basis and provides support for its decision.

(f) Decisions may be made at the conclusion of the hearing or may be taken under advisement for later action. The Council's decision shall be rendered no later than thirty days following the conclusion of the hearing. The City Attorney and appellant will have had the opportunity to submit their suggested findings to the City Council.

(g) Prior to the hearing, upon request, the City Attorney shall provide to the appellant, or his/her attorney, copies of all supporting documentation regarding staff's recommendations, as well as copies of all documents submitted to the City Council.

(h) Unless otherwise provided for by specific appeal provisions set forth in the city's ordinances, any appeal of a staff's determination may be taken by filing with the City Clerk a written notice of appeal to the City

Council within ten (10) business days of the staff's decision. The Notice of Appeal shall specify: the name and address of the appellant; the date of application; the date of the denial, suspension, modification, revocation or imposition of additional conditions of the license or application and the factual basis for the appeal.

(1) Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension, modification or revocation of the license until the matter is heard by the City Council.

(2) The City Council may approve the denial, suspension, modification, revocation, or imposition of additional conditions, overrule the denial, suspension, modification, revocation or imposition of additional conditions or modify the decision of staff.

(3) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101 and any amendments thereto. Any such appeal to the District Court shall not stay the denial, revocation, modification or suspension of the license by the City Council.”

SECTION 2. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of January, 2016.

---

Jeff Longwell, Mayor

ATTEST:

---

Karen Sublett, City Clerk

Approved as to Form:

---

Jennifer Magana  
City Attorney and Director of Law